

00169.001649

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
SEAN MATTHEW DOHERTY	:	Examiner: Donald Champagne
)	
Application No.: 09/523,193	:	Group Art Unit: 3622
)	
Filed: March 10, 2000	:	
)	
For: DISPLAYING ITEMS	:	
OF INFORMATION	:	September 1, 2006

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 C.F.R. § 1.136(a)

Sir:

On August 31, 2006, Applicant's representative was contacted by Sonya Hilliard of the Patent Office. Ms. Hilliard requested that Applicant submit a petition for extension of time and fee in the above-identified application. However, Applicant believes that no petition or fee is required, since the Examiner responsible for the application has agreed to withdraw the finality of the Office Action dated November 29, 2005. (See Examiner Interview Summary Record, May 11, 2006 ("the examiner agreed to make the last prior art rejection non-final, and to restart the time period")).

Therefore, Applicant believes that the Amendment After Final Rejection, Request To Withdraw Prematurely-Entered Final Rejection, And Second Request For Interview dated March 28, 2006 should be deemed a response to non-final rejection under 37 C.F.R § 1.111(a)(1), and accordingly, that the Statement Of Substance Of Interview

And Supplemental Amendment After Final Rejection dated August 23, 2006 should be treated as a supplemental reply under 37 C.F.R § 1.111(a)(2)(B) with no extension fees due. (See also, MPEP § 706.07(f)(III)(M) (“If prosecution is to be reopened after a final Office action has been replied to, the finality of the previous Office action should be withdrawn *to avoid the issue of abandonment and the payment of extension fees.*”(emphasis added))).

Nevertheless, Applicant petitions the Commissioner for Patents to extend the time for response to the Office Action dated November 29, 2005 for two additional months from March 29, 2006 to May 29, 2006. This extension period is based on the date of the Examiner Interview Summary Record (May 11, 2006), in which the Examiner agreed to withdraw finality. However, Applicant notes that extension fees are not required for examiner interviews after final rejection. (See MPEP § 706.07(f)(III)(K) (“Interviews may be conducted after the expiration of the shortened statutory period for reply to a final Office action but within the 6-month statutory period for reply without the payment of an extension fee.”)). Accordingly, for this additional reason, Applicant submits that no fee should be required.

The commissioner is hereby authorized to charge \$900.00 (the difference between the three-month extension fee of \$1,020.00 and the one-month extension fee of \$120.00 previously paid) for the extension under 37 C.F.R. §1.17 to Deposit Account 50-3939. Any deficiency in or overpayment of this fee should also be charged or credited to Deposit Account 50-3939.

Applicant's undersigned attorney may be reached in our Costa Mesa, California office by telephone at (714) 540-8700. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

/Edward Kmett/

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